



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

ance of appropriations made by law," for no particular form of appropriation or technical words are prescribed.

[Ed. Note.—For other cases, see States, Cent. Dig. § 129.\* 12 Va.-W. Va. Enc. Dig. 734.]

Error to Circuit Court of City of Richmond.

Mandamus by the Ferries Company against the Commonwealth. Peremptory mandamus was awarded, and the Commonwealth brings error. Affirmed.

*The Attorney General* for the Commonwealth.

*R. R. Hicks, of Norfolk*, for defendant in error.

---

COTTRELL *v.* MATHEWS et al.

June 14, 1917.

[92 S. E. 808.]

**1. Appeal and Error (§ 1022 (1)\*)—Review—Findings of Commissioner.**—A commissioner's report on which a decree is entered, especially when the evidence has been taken in his presence, is entitled to great weight, and will not be disturbed unless clearly contrary to the evidence.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 4015, 4017, 4018.\* 1 Va.-W. Va. Enc. Dig. 623; 15 Va.-W. Va. Enc. Dig. 74.]

**2. Appeal and Error (§ 1041 (2)\*)—Amendment—Harmless Error.**—Any error in allowing amendment of a partition bill was cured by a consent order setting the cause for hearing upon the original and amended bill, the several answers thereto, etc.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 4107.\* 1 Va.-W. Va. Enc. Dig. 582, 609.]

**3. Insane Persons (§ 94 (1)\*)—Guardian Ad Litem—Statute Applicable—Partition.**—Code 1904 §§ 2618, 2619, requiring guardians ad litem to be appointed for insane defendants, is inapplicable to a suit for partition of lands held in common under a will.

[Ed. Note.—For other cases, see Insane Persons, Cent. Dig. § 164.\* 7 Va.-W. Va. Enc. Dig. 696.]

**4. Insane Persons (§ 94 (1)\*)—Guardian Ad Litem—Partition.**—Failure to appoint a guardian ad litem for a defendant in partition suit, as provided by Code 1904, § 3255, is not ground for reversal where defendant strenuously denied her insanity, and that issue was undetermined when she died and her administrator was substituted as defendant.

[Ed. Note.—For other cases, see Insane Persons, Cent. Dig. § 164.\* 7 Va.-W. Va. Enc. Dig. 696.]

---

\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

**5. Wills (§ 540\*)—Construction—Words of Survivorship.**—Under a will providing that at the death of the testator's wife his estate should be equally divided between the surviving children, the children surviving at the testator's, and not at the wife's death, take the property.

[Ed. Note.—For other cases, see Wills, Cent. Dig. §§ 1164, 1302-1309.\* 11 Va.-W. Va. Enc. Dig. 825, 826.]

**6. Wills (§ 629\*)—Construction—Remainders.**—A will should be construed to favor vested, rather than contingent, remainders.

[Ed. Note.—For other cases, see Wills, Cent. Dig. §§ 1461, 1462.\* 11 Va.-W. Va. Enc. Dig. 822; 13 Va.-W. Va. Enc. Dig. 818.]

**7. Wills (§ 540\*)—Construction—Words of Survivorship.**—Words of survivorship in a will should be construed to relate to the testator's, rather than a life tenant's death, unless a contrary intent clearly appears.

[Ed. Note.—For other cases, see Wills, Cent. Dig. §§ 1164, 1302-1309.\* 11 Va.-W. Va. Enc. Dig. 824.]

Appeal from Circuit Court, Henrico County.

Partition suit by William H. Mathews and others against Charles Cottrell and others. Decree for complainants, and the named defendant appeals. Affirmed.

*Marshall M. Gilliam*, of Richmond, for appellant.

*A. W. Patterson* and *E. L. Ryan*, both of Richmond, for appellees.

#### WASHINGTON-VIRGINIA RY. CO. v. FISHER.

June 14, 1917.

[92 S. E. 809.]

**1. Railroads (§ 299\*)—Private Crossings.**—Under Code 1904, § 1294b, as to private crossings, etc., a railroad, putting in for a landowner a private crossing which is smooth and level and satisfactory to the landowner is not liable to a member of the general public who, using the crossing for her own convenience, falls over its edge and is injured; the duty of the railroad being owed exclusively to the landowner.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 954, 958.\* 4 Va.-W. Va. Enc. Dig. 126; 11 Va.-W. Va. Enc. Dig. 570.]

**2. Railroads (§ 299\*)—Public Crossings—"County Roads or Highways."**—Although upon the acknowledgment and recordation of a plat the "Map Act" (Code 1904, § 2510a) creates a public easement or right of passage over such portions of the premises as are set

---

\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.